

# ***Management and Licensing Information Systems - an Overview***

*(Prepared by: Thomas R. Vaughn, Associate General Counsel, Office of Legislative Research and General Counsel)*

## ***Systems***

*Management Information System (MIS):* The MIS is a system containing reports made to DCFS. The MIS is maintained by DCFS and may only be accessed by statutorily authorized people. It is used for child protection purposes, including licensing foster parents.

*Licensing Information System (LIS):* The LIS is a system within the MIS that is accessed for purposes of licensing individuals who have physical access to vulnerable populations for employment or volunteer positions.

## ***Reports and DCFS findings***

1. A report of child abuse or neglect is made to the Division of Child and Family Services (DCFS).
2. The report is entered into the MIS. This database does not affect a person's employability, but may affect the person's ability to be a foster parent or adopt a child.
3. DCFS investigates the report and determines whether the report is supported, unsupported, or without merit. This finding is also entered onto the MIS.
4. If a supported finding involves a severe type of child abuse or neglect, it is also included in the LIS. Listing on this LIS can have an affect on a person's employment, ability to be a foster parent, or the ability to adopt a child.

## ***Notice of DCFS findings***

1. If a supported finding is made, the division sends notice of this finding to the suspect. That person then has one year to appeal the decision. After one year, the suspect loses their right to appeal. Appeals may be made to DCFS or directly to a court. If an appeal is made to DCFS, an administrative hearing is held. This hearing may be appealed to a court.
2. If DCFS makes a finding that a report is unsupported or without merit, the person is not notified of the finding.
3. Copies of DCFS' form letters giving notice of findings are attached hereto as follows:
  - a. ATTACHMENT "A" - Notice to an adult that the adult is listed on the LIS as having a supported finding of a severe type of child abuse or neglect.

- b. ATTACHMENT "B" - Notice to an adult that the adult is listed on the MIS as having a supported finding of child abuse or neglect.
- c. ATTACHMENT "C" - Notice to a parent or guardian of a juvenile that the juvenile is listed on the LIS as having a supported finding of a severe type of child abuse or neglect.
- d. ATTACHMENT "D" - Notice to a parent or guardian of a juvenile that the juvenile is listed on the MIS as having a supported finding of child abuse or neglect.
- e. ATTACHMENT "E" - Same as Attachment "D", except that it also includes notice of a determination that the juvenile does *not* pose a significant risk to other children.

### ***Court findings***

- 1. DCFS may petition the court to make a finding within one year of the time that DCFS makes a supported finding. This is usually done for serious cases of abuse or neglect. The court may also make the finding as part of a child protection hearing. In that case, the right to appeal must be exercised in the child protection proceeding. The court's finding cannot be attacked collaterally in order to have it removed from the MIS or LIS systems.
- 2. A court may make a finding that a report is substantiated, unsubstantiated, or without merit. The finding of the court is entered onto the MIS system, unless, in the case of a finding of unsubstantiated or without merit, the court orders that the report be removed from the MIS and LIS systems. This is usually ordered if the person's attorney is experienced and knows to ask the court to have the report removed. Substantiated reports of a severe type of child abuse or neglect are also entered on the LIS.
- 3. If a court finds that a case is unsubstantiated or without merit, and that decision is appealed by DCFS, the suspect's name and identifying information is removed from the LIS, unless and until that finding is reversed on appeal.

### ***Retention of reports received on or after May 6, 2002***

- 1. If DCFS makes a supported finding that is not appealed, it will stay on the MIS permanently and, if it is a severe type of child abuse or neglect, it will also stay on the LIS permanently.
- 2. If DCFS makes a finding that a report is unsupported, it remains on the MIS permanently (a court could order otherwise, but since the person is not notified of this finding, it is unlikely to happen).

3. If DCFS makes a finding that a report is without merit, the report will be purged of all identifying information (of both the suspect and the victim) after it has been on the system for one year, unless a subsequent report is received.
4. A final decision of a court that a report is substantiated will stay on the MIS permanently and, if it is a severe type of child abuse or neglect, it will also stay on the LIS permanently.
5. A final decision of a court that a report is unsubstantiated will stay on the MIS for five years, unless a subsequent report is received or the court orders it taken off the MIS. A court usually orders an unsubstantiated report to be removed from the MIS if the person's attorney is experienced and knows to ask the court to have the report removed.
6. A final decision of a court that a report is without merit will stay on the MIS for one year, unless a subsequent report is received or the court orders it taken off the MIS. A court usually orders that a report found to be without merit be removed from the MIS if the person's attorney is experienced and knows to ask the court to have the report removed.
7. The normal time period that must pass before an unsubstantiated or without merit report is removed (or the identifying information is removed) from the MIS starts over again if a second report is received, regardless of whether the second report is found to be supported, unsupported, substantiated, unsubstantiated, or without merit, unless a court orders otherwise.
8. Occasionally, the court may also seal a report. In this case, the report cannot be accessed without a court order.

***Retention of reports received before May 6, 2002***

1. Before May 6, 2002, DCFS (instead of a court) determined whether a report was substantiated, unsubstantiated or without merit. If the case was appealed, the court would make one of these same three possible findings.
2. Unless a court has ordered otherwise, all substantiated findings made before May 6, 2002, by DCFS or the court are still on the MIS, and if the abuse was a severe type of child abuse or neglect, they are still on the LIS.
3. From January of 2003, until February 7, 2006, reports were purged from the MIS if the report:
  - a. was received before May 6, 2002;
  - b. was found by DCFS or a court to be unsubstantiated;
  - c. was over five years old; and

- d. no subsequent report was received.
- 4. On February 7, 2006, DCFS changed its interpretation of the law and determined that this purging of unsubstantiated records was only permitted if the finding was made by a court. Thus, purging of these records, when the finding of unsubstantiated was made by DCFS, was discontinued. The reports described in the preceding item "3" are still on the MIS if the report was received after February 6, 2001, and the finding of unsubstantiated was made by DCFS.
- 5. Reports received before May 6, 2002 that were found to be without merit by DCFS or a court were removed from the MIS after one year, unless this period restarted due to the receipt of a subsequent report.
- 6. DCFS has also maintained paper reports that were received prior to implementation of the MIS system. Some of these are in archives.

### ***Current definitions***

The definitions relating to findings included in the MIS or LIS are:

- 1. "'Substantiated' or 'substantiation' means a judicial finding based on a preponderance of the evidence that abuse or neglect occurred. Each allegation made or identified in a given case shall be considered separately in determining whether there should be a finding of substantiated." Subsection 62A-4a-101(28).
- 2. "'Supported' means a finding by the division based on the evidence available at the completion of an investigation that there is a reasonable basis to conclude that abuse, neglect, or dependency occurred. Each allegation made or identified during the course of the investigation shall be considered separately in determining whether there should be a finding of supported." Subsection 62A-4a-101(30).
- 3. "'Unsubstantiated' means a judicial finding that there is insufficient evidence to conclude that abuse or neglect occurred." Subsection 62A-4a-101(33).
- 4. "'Unsupported' means a finding at the completion of an investigation that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred. However, a finding of unsupported means also that the division worker did not conclude that the allegation was without merit." Subsection 62A-4a-101(34).
- 5. "'Without merit' means a finding at the completion of an investigation by the division, or a judicial finding, that the alleged abuse, neglect, or dependency did not occur, or that the alleged perpetrator was not responsible for the abuse, neglect, or dependency." Subsection 62A-4a-101(35).

6. Severe type of child abuse or neglect, is defined in Subsection 62A-4a-1002(1) as follows:

- "(1) (a) Except as provided in Subsection (1)(b), "severe type of child abuse or neglect" means:
- (i) if committed by a person 18 years of age or older:
    - (A) severe or chronic physical abuse;
    - (B) sexual abuse;
    - (C) sexual exploitation;
    - (D) abandonment;
    - (E) medical neglect resulting in death, disability, or serious illness;
    - (F) chronic neglect;
    - (G) severe neglect;
    - (H) chronic emotional abuse; or
    - (I) severe emotional abuse; or
  - (ii) if committed by a person under the age of 18:
    - (A) serious physical injury, as defined in Subsection 76-5-109(1)(d), to another child which indicates a significant risk to other children; or
    - (B) sexual behavior with or upon another child which indicates a significant risk to other children.
- (b) "Severe type of child abuse or neglect" does not include:
- (i) the use of reasonable and necessary physical restraint or force by an educator in accordance with Subsection 53A-11-802(2) or Section 76-2-401;
  - (ii) a person's conduct that:
    - (A) is justified under Section 76-2-401; or
    - (B) constitutes the use of reasonable and necessary physical restraint or force in self-defense or otherwise appropriate to the circumstances to obtain possession of a weapon or other dangerous object in the possession or under the control of a child or to protect the child or another person from physical injury; or
  - (iii) a health care decision made for a child by the child's parent or guardian, unless, subject to Subsection 62A-4a-1004(2), the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed."

## ATTACHMENT "A"

[Letterhead]

### NOTICE OF AGENCY ACTION

[Date]

[Perpetrator's Name]

[Perpetrator's Address]

Re: Supported Finding for Case Number: [Case number]

Dear [Perpetrator]:

When the Division of Child and Family Services (DCFS) receives a report of child abuse or neglect, it is required by state law that they complete an investigation with findings. An investigation was completed for severe or chronic child abuse or neglect on the above case. (Utah Code, Section 62A-4a-1002 defines severe/chronic child abuse.) Based on the facts of the case, it was supported that the abuse or neglect had occurred with you as the responsible party. The supported finding includes the following allegation/s: **(include list of supported allegations)**. DCFS is required by state law to provide you with the enclosed information (Utah Code, Section 62A-4a-1005).

#### **How This Finding May Affect You:**

The results of this finding are that your name and information will go on the Licensing Information System maintained by DCFS, which may disqualify or prevent you from:

- Being licensed as a foster parent
- Being approved as an adoptive parent
- Receiving or keeping certain types of human service licenses
- Providing services to children in a job or volunteer position
- Providing public school-based services
- Providing services in a health care facility

Although information in the Licensing Information System is not available to the public and can only be accessed for legally approved purposes, it is possible that the Utah State Legislature may change the laws of access in the future. (see Utah Code, Sections 62A-4a-1006 and 62A-4a-412).

DCFS may request the Attorney General's office to file a petition in juvenile court to recommend that the supported finding be "substantiated."

#### **Challenging the Finding:**

You may challenge the supported finding by doing either one or both of the following:

- 1) Send a written request for a DCFS Internal Review of the finding to:  
DCFS Administrative Hearing Tracker  
120 North 200 West #225  
Salt Lake City, UT 84103

**and/or**

- 2) Within one year of the finding you may petition the juvenile court (Utah Code 78-3a-320) for review and, if approved, have your name removed from the Licensing Information System.

**Please note:**

If a court has already made a determination or a determination is pending, you may not be entitled to a hearing. During the review process, the database will remain unchanged until a new outcome is determined.

If you do not wish to challenge the finding, you may sign the attached written consent form.

**How to Obtain a Copy of the Records:**

If you wish to receive a copy of these records, fill out the "Request for DCFS Records" form, and send it to the GRAMA (Government Records Access and Management Act) Specialist at the DCFS office in your area (see the attached list). If you have questions, contact the records specialist on the attached list. You must pick up the record in person and show approved picture identification.

If you wish to ask questions regarding the facts of the case, you may contact your case worker:  
[Caseworker name], [Caseworker phone]

If you have questions about the review process, please call the DCFS Hearing Tracker at (801) 538-4427.

Sincerely,



Richard J. Anderson  
Director, Division of Child and Family Services

**Attachments:**

- (1) Child and Family Services Records Specialists Listing
- (2) Government Records Access And Management Act Request For DCFS Records
- (3) Agreement to Enter a Finding and Waiver of Right to Hearing

CPS10A  
April 2006

## ATTACHMENT "B"

[Letterhead]

### NOTICE OF AGENCY ACTION

[Date]

[Perpetrators Name]

[Perpetrators Address]

Re: Supported Finding for Case Number: [Case Number]

Dear [Perpetrator]:

When the Division of Child and Family Services (DCFS) receives a report of child abuse, neglect, or dependency, it is required by state law that they complete an investigation with findings. An investigation was completed on the above case. Based on the facts of the case, it was supported that the abuse, neglect, or dependency had occurred with you as the responsible party. The supported finding includes the following allegation/s: **(include list of supported allegations)**. DCFS is required by state law to provide you with the enclosed information (Utah Code, Section 62A-4a-1009).

#### **How This Finding May Affect You:**

DCFS is required to maintain information and records regarding all investigations of child abuse, neglect, or dependency. The results of a supported finding of child abuse or neglect are having your name and information on the DCFS confidential database. These records are protected and are available only to those with legal authorization for limited purposes. (see Utah Code Sections 62A-4a-1003 and 62A-4a-412).

The Department of Human Services Office of Licensing may access these records for the purpose of licensing and monitoring foster parents. Therefore, you may be disqualified from obtaining or retaining a license to be a foster parent. However, you need to know that if the Utah State Legislature changes the access requirements of this record in the future, your eligibility to work or volunteer with children, retain certain licenses or adopt a child may be affected.

#### **Challenging the Finding:**

You may challenge the supported finding as follows:

File a written request for a review by completing the attached "Request for Administrative Hearing" form. Return the request form to the DCFS Hearing Tracker within 30 days of receiving this notice, and:



- DCFS will do an internal review of the case finding;
  - The Office of Administrative Hearings will schedule an Administrative Hearing. In an Administrative Hearing, DCFS must prove that there is a basis to conclude the abuse or neglect occurred and you were responsible. You may speak for yourself or you may bring someone else to represent or support you. This hearing will be conducted as an informal adjudicative proceeding.

**How to Obtain a Copy of the Records:** If you wish to obtain a copy of the records of this investigation, fill out the enclosed "Request for DCFS Records" form and send it to the GRAMA (Government Records Access and Management Act) Specialist at the DCFS office in your area. If you have questions, contact the records specialist on the attached list. You must pick up the record in person and show approved picture identification.

If you wish to ask questions regarding the facts of the case you may contact your caseworker:  
[Caseworker name], [Caseworker phone]

If you have any questions about this process, please call the DCFS Hearing Tracker at (801) 538-4427.

Sincerely,



Richard J. Anderson  
Director, Division of Child and Family Services

Attachments:

- (1) Child and Family Services Records Specialists Listing
- (2) Government Records Access and Management Act Request for DCFS Records form
- (3) Request for an Administrative Hearing form

## ATTACHMENT "C"

[Letterhead]

### NOTICE OF AGENCY ACTION

[Date]

Parent or Guardian of

[Minor Perpetrators name]

[Address of Perpetrator]

Re: Supported Finding for Case Number: [Case Number]

To the Parent or Guardian of [Minor Perpetrator's Name]:

When the Division of Child and Family Services (DCFS) receives a report of child abuse or neglect, it is required by state law that they complete an investigation with findings. An investigation was completed for severe or chronic child abuse or neglect on the above case. (Utah Code, Section 62A-4a-1002 defines severe/chronic child abuse.) Based on the facts of the case, it was supported that the abuse or neglect had occurred with [Minor Perpetrator's Name] as the responsible party. The supported finding includes the following allegation/s: (include list of supported allegations). DCFS is required by state law to provide you with the enclosed information (62A-4a-1005).

#### **Significant Risk Assessment:**

As part of the investigation with a juvenile as the perpetrator (see Utah Code, Section 62A-4a-1002), DCFS is required to complete a youth risk assessment. This assessment indicated that [Minor Perpetrator's name] is a significant risk to other children.

#### **How this Finding May Affect Employment or Volunteer Work:**

As a result of the supported severe/chronic finding, [Minor Perpetrator's name]'s information has been placed on the Licensing Information System maintained by DCFS. This may disqualify or prevent your child from:

- Obtaining a license to be a foster parent in the future
- Being approved as an adoptive parent in the future
- Obtaining or retaining certain types of human service licenses
- Working or volunteering for those who provide services to children
- Providing public school-based services
- Providing services in some health care facilities

Although information in the Licensing Information System is not available to the public and can only be accessed for legally approved purposes, you need to know that it is possible that the Utah State Legislature may change the laws of access in the future. (see Utah Code, Sections 62A-4a-1006 and 62A-4a-412).

DCFS may request a petition be filed in juvenile court to recommend that the supported finding

be “substantiated”.

**Challenging the Finding:**

You may challenge the supported finding by doing either one or both of the following:

- 1) Send a written request for a DCFS Internal Review of the finding to:

DCFS Administrative Hearing Tracker 120 North 200 West #225 Salt Lake City, UT  
84103

**and/or**

- 2) Within one year of the finding you may petition the juvenile court (Utah Code 78-3a-320) for review and, if approved, have your child’s name removed from the Licensing Information System.

**Please note:**

If a court has already made a determination or a determination is pending, your child may not be entitled to a hearing. During the review process, the supported finding will remain on the database pending an outcome.

If you do not wish to challenge the finding, you may sign the attached written consent form.

**How to Obtain a Copy of the Records:** If you wish to obtain a copy of the records of this investigation, fill out the enclosed “Request for DCFS Records” form, and send it to the GRAMA (Government Records Access and Management Act) Specialist at the DCFS office in your area. If you have questions, you may contact a records specialist on the attached list. You must pick up the record in person and show approved picture identification.

If you wish to ask questions regarding the facts of the case you may contact your caseworker:

[Caseworker name], [Caseworker phone]

If you have any questions about this process, please call the DCFS Hearing Tracker at (801) 538-4427.

Sincerely,



Richard J. Anderson

Director, Division of Child and Family Services

**Attachments:**

- (1) Child and Family Services Records Specialists Listing
- (2) Government Records Access and Management Act Request for DCFS Records form
- (3) Agreement to Enter a Finding and Waiver of Right to Hearing

CPS10C April 2006

## ATTACHMENT "D"

[Letterhead]

### NOTICE OF AGENCY ACTION

[Date]

Parent or Guardian of

[Minor Perpetrators name]

[Address of Perpetrator]

Re: Supported Finding for Case Number: [Case Number]

To the Parent or Guardian of [Minor Perpetrator's Name]:

When the Division of Child and Family Services (DCFS) receives a report of child abuse, neglect, or dependency, it is required by state law that they complete an investigation with findings. An investigation was completed on the above case. Based on the facts of the case, it was supported that the abuse or neglect had occurred with [Minor Perpetrator's Name], a juvenile under the age of 18, as the responsible party. The supported finding includes the following allegation/s: (include list of supported allegations). DCFS is required by state law to provide you with the enclosed information (Utah Code, Section 62A-4a-1009).

#### **Significant Risk Assessment:**

As part of the investigation with a juvenile as the perpetrator (see Utah Code, Section 62A-4a-1002), DCFS is required to complete a youth risk assessment. This assessment indicated that [Minor Perpetrator's name] does **not** pose a significant risk to other children.

#### **How This Finding May Affect Employment or Volunteer Work:**

DCFS is required to maintain information and records regarding all investigations of child abuse, neglect, or dependency in its confidential database. These records are protected and are available only to those with legal authorization. (see Utah Code Sections 62A-4a-1003 and 62A-4a-412).

The Department of Human Services Office of Licensing may access these records for the purpose of licensing and monitoring foster parents. Therefore, [Minor Perpetrator's Name] may be disqualified from obtaining or retaining a license to be a foster parent. However, you need to know that if the Utah State Legislature changes the access requirements of this record in the future, your eligibility to work or volunteer with children, retain certain licenses or adopt a child may be affected.

#### **Challenging the Finding:**

You may challenge the supported finding as follows:

File a written request for a review by completing the attached "Request for Administrative Hearing" form. Return the request form to the DCFS Hearing Tracker within 30 days of this receiving this notice, and:

- DCFS will do an internal review of the case finding;
- The Office of Administrative Hearings will schedule an Administrative Hearing. In an Administrative Hearing, DCFS must prove that there is a basis to conclude the abuse or neglect occurred and [Minor Perpetrator's Name] was responsible. Your child may speak or may bring someone else to represent or support them. This hearing will be conducted as an informal adjudicative proceeding.

**How to Obtain a Copy of the Records:** If you wish to obtain a copy of the available records of this investigation, fill out the enclosed "Request for DCFS Records" form and send it to the GRAMA (Government Records Access and Management Act) Specialist at the DCFS office in your area. If you have questions, you may contact a records specialist on the attached list. You must pick up the record in person and show approved picture identification.

If you wish to ask questions regarding the facts of the case you may contact your caseworker: [Caseworker name], [Caseworker phone]

If you have any questions about this process, please call the DCFS Hearing Tracker at (801) 538-4427.

Sincerely,



Richard J. Anderson  
Director, Division of Child and Family Services

Attachments:

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- (3) Request for an Administrative Hearing form

CPS10D April 2006

## ATTACHMENT "E"

[Letterhead]

### NOTICE OF AGENCY ACTION

[Date]

Parent or Guardian of

[Minor Perpetrators name]

[Address of Perpetrator]

Re: Supported Finding for Case Number: [Case Number]

To the Parent or Guardian of [Minor Perpetrator's Name]:

When the Division of Child and Family Services (DCFS) receives a report of child abuse, neglect, or dependency, it is required by state law that they complete an investigation with findings. An investigation was completed on the above case. Based on the facts of the case, it was supported that the abuse or neglect had occurred with [Minor Perpetrator's Name], a juvenile under the age of 18, as the responsible party. The supported finding includes the following allegation/s: (include list of supported allegations). DCFS is required by state law to provide you with the enclosed information (Utah Code, Section 62A-4a-1009).

#### **How This Finding May Affect Employment or Volunteer Work:**

DCFS is required to maintain information and records regarding all investigations of child abuse, neglect, or dependency in its confidential database. These records are protected and are available only to those with legal authorization. (see Utah Code Sections 62A-4a-1003 and 62A-4a-412).

The Department of Human Services Office of Licensing may access these records for the purpose of licensing and monitoring foster parents. Therefore, [Minor Perpetrator's Name] may be disqualified from obtaining or retaining a license to be a foster parent. However, you need to know that if the Utah State Legislature changes the access requirements of this record in the future, your child's eligibility to work or volunteer with children, retain certain licenses or adopt a child may be affected.

#### **Challenging the Finding:**

You may challenge the supported finding as follows:

File a written request for a review by completing the attached "Request for Administrative Hearing" form. Return the request form to the DCFS Hearing Tracker within 30 days of receiving this notice, and:

- DCFS will do an internal review of the case finding;
- The Office of Administrative Hearings will schedule an Administrative Hearing. In an Administrative Hearing, DCFS must prove that there is a basis to conclude the abuse or neglect occurred and [Minor Perpetrator's Name] was responsible. Your child may speak or may bring someone else to represent or support them. This hearing will be conducted as an informal adjudicative proceeding.

**How to Obtain a Copy of Your Records:** If you wish to obtain a copy of these records, fill out the enclosed "Request for DCFS Records" form and send it to the GRAMA (Government Records Access and Management Act) Specialist at the DCFS office in your area (see attached list). If you have questions, you may contact a records specialist. You must pick up the record in person and show approved picture identification.

If you wish to ask questions regarding the facts of the case you may contact your caseworker: [Caseworker name], [Caseworker phone]

If you have any questions about this process, please call the DCFS Hearing Tracker at (801) 538-4427.

Sincerely,



Richard J. Anderson  
Director, Division of Child and Family Services

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CPS10E April 2006